

### REMARKS

The present application was filed on July 11, 2003 with claims 1-21. Claims 1-21 were previously canceled without prejudice and replaced by new claims 22-41. Claims 25, 30, 31, 37 and 41 have since been canceled. Claims 22-24, 26-29, 32-36 and 38-40 were pending prior to the present amendment. Claims 22, 29, 34 and 38 are the pending independent claims.

Claims 22-24, 26-29, 32-36 and 38-40 currently stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,821,936 (hereinafter "Shaffer") in view of Devec et al., "Design and Evaluation of an Evaluation of an Adaptive Icon Toolbar," User Modeling and User-Adapted Interaction, Vol. 6, No. 1, pp. 1-21, March 1996 (hereinafter "Devec").

In formulating the present rejection of independent claims 22, 34 and 38, the Examiner concedes that Shaffer fails to disclose the limitations directed to displaying the new menu structure prior to the completion of the replacement of the current menu structure with the new menu structure, wherein user approval of the menu alteration comprises user approval of the new menu structure as displayed.

Rather, the Examiner argues that these limitations are taught by the Abstract of Devec, which states that "[a]t the user's convenience, the adaptive bar offers suggestions for adding or removing command icons, based on the frequency and probability of specific commands. It also implements these changes once the user has agreed to them," as well by FIG. 2 of Devec.

Applicant respectfully disagrees with the Examiner's contention that the above-noted disclosure of Devec meets the limitations at issue. Specifically, Applicant respectfully submits that Devec merely displays a proposed change to the current adaptive bar, rather than displaying the new menu structure itself prior to the completion of the replacement. See, e.g., page 5, third paragraph, last sentence ("After the new model of the bar is chosen, the actual toolbar is changed.")

Moreover, the user approval taught by Devec is not an approval of a new menu structure as displayed, but rather is an approval of the proposed change to the current adaptive bar. See, e.g., Devec at Abstract (quoted above), and at page 4, third paragraph (When "a proposal for change is available, the user can review the proposal at any time by double-clicking on the bar background. This action calls up a single dialog box (Figure 2) that allows the user to confirm or reject the proposed change.")

FIG. 2 of Devec shows the dialog window used for obtaining user approval of a proposed change. Specifically, the dialog window in FIG. 2 proposes replacement of an icon representing FormatFont with an icon representing ViewZoomWholePage. It should be noted that the adaptive bar as shown in the upper portion of FIG. 2 does not contain the FormatFont icon, but rather includes the ViewZoomWholePage icon as the eighth icon. In other words, the adaptive bar displayed is that which existed prior to the implementation of the proposed change, rather than the new adaptive bar which would result from the implementation of the proposed change. Moreover, FIG. 2 indicates that user approval of the proposed change is obtained (e.g., by selecting the button labeled “YES” rather than the button labeled “NO”) while the existing adaptive bar is displayed, rather than the new adaptive bar.

In view of the above, Applicant respectfully submits that Devec fails to remedy the admitted deficiency of Shaffer so as to reach the limitations of claims 22, 34 and 38.

In the final Office Action at page 2, last paragraph, the Examiner responds to the above arguments by arguing that Devec “allows the user to view the new menu structure through observing the elements to be changed without displaying the new menu structure in its entirety. While Examiner concedes that the new menu structure is not displayed in its complete form, this does not preclude the new menu structure from being displayed to the user in piecemeal fashion.”

Applicant respectfully disagrees with the Examiner’s interpretation of the limitations at issue, which are directed to displaying the new menu structure prior to the completion of the replacement of the current menu structure with the new menu structure, wherein user approval of the menu alteration comprises user approval of the new menu structure as displayed. Again, Devec does not display the new menu structure prior to the replacement of the current menu structure with the new menu structure; rather, Devec merely displays a proposed change to a current menu structure and requires the user to mentally visualize the resulting new menu structure.

In the Advisory Action dated January 22, 2009, the Examiner argues that “displaying of the new menu structure of the new menu structure to the user in piecemeal fashion, as taught by Devec, reads upon the claim limitations” because “the claim limitations do not specifically indicate that the entirety of the new menu structure is displayed, and as such an indication of displaying any portion of the new menu structure meets the claim limitations.” Applicant

respectfully notes that previously-presented claims 22, 34 and 38 include limitations directed to displaying “the new menu structure,” rather than displaying “at least a portion of the new menu structure,” and hence disagree with the Examiner’s interpretation. Nonetheless, Applicant has amended independent claims 22, 34 and 38 without prejudice solely in order to expedite prosecution by clarifying the claimed subject matter in accordance with the Examiner’s subjective preference. More particularly, Applicant has amended independent claims 22, 34 and 38 so as to specify concurrently displaying the entire new menu structure.

Independent claim 29 specifies an arrangement wherein the step of replacing the current menu structure with the new menu structure is executed only if the number of menu items in the new menu structure that have no corresponding match in the current menu structure exceeds a threshold greater than or equal to two menu items.

The Examiner concedes that Shaffer fails to teach these limitations but rather relies on the last two paragraphs of page 4 of Devec, which the Examiner characterizes as “clearly indicat[ing] that the user may choose to disregard the predefined threshold and only consider toolbar changes at their convenience, thus indicating that the threshold may be user defined (e.g. the threshold may be set [sic] two or more by the user).” The cited portion of Devec states:

Once the bar background indicates that a proposal for change is available, the user can review the proposal at any time by double-clicking on the bar background. This action calls up a single dialog box (Figure 2) that allows the user to confirm or reject the proposed change. If the user rejects a proposed change, the system maintains the data that led to the suggestion, but then uses this data to generate different proposals that have not yet been rejected. This mechanism helps prevent the system from insisting on one particular suggestion over and over again. . . .

If the user continues working for a long time without reviewing any proposals for change, the system continues to dynamically calculate the priority of each command. If at some later time, the user clicks on the bar background to review a proposal, the system presents a single proposal based on the user’s most recent activity.

It is important to note that Devec only presents, and only implements, one proposal at a time, regardless of the number of previous proposals which have been rejected and/or ignored by the user: “at some later time, the user clicks on the bar background to review a proposal, the system presents a single proposal based on the user’s most recent activity.” See also Devec at page 5, second paragraph: “When the user accepts the proposed adaptation, the bar background

returns to its normal color. If the user clicks on the bar background in this state, the system displays a dialog box stating that no suggestions are currently available.”

Moreover, each of these proposals involves the addition, removal, or replacement of a single icon, thus meaning that the new menu structure will always have at most one item which has no corresponding match in the current menu structure. See FIGS. 1 and 2 of Devec. See also Devec at page 5, first paragraph:

If a particular function is used frequently, the system indicates that a suggestion is available and proposes adding an icon for that function. Similarly, if a function on the bar is not used for a long period of time, the system will suggest removing it from the bar. If the both [sic] conditions occur together - a function not on the bar is used frequently, and a function on the bar is not used for a long time - the system can make a single suggestion to replace the unused icon with an icon for the frequently used function.

In view of the above, Applicant respectfully submits that Devec fails to remedy the admitted deficiency of Shaffer so as to reach the limitations of claim 29.

Dependent claims 23, 24, 26-28, 32, 33, 35, 36, 39 and 40 are believed patentable at least by virtue of their dependency from their respective independent claims, which are believed patentable for the reasons identified above.

Applicant has also added new dependent claims 42-45, which depend from independent claims 22, 29, 34 and 38, respectively. Dependent claims 42, 44 and 45 include certain limitations similar to those recited in claim 29, and dependent claim 43 includes certain limitations similar to those recited in claim 22. Moreover, each of dependent claims 42-45 includes an additional limitation wherein a displaying step is executed only if the calculated difference exceeds a threshold, the threshold being a number of menu items greater than or equal to two. Support for these amendments may be found in the specification at, for example, page 3, line 32, to page 4, line 7; page 4, lines 25-32; and page 10, lines 18-24.

As heretofore noted, the Examiner argues in rejecting independent claim 29 that the last two paragraphs of page 4 of Devec “clearly indicates that the user may choose to disregard the predefined threshold and only consider toolbar changes at their convenience, thus indicating that the threshold may be user defined (e.g. the threshold may be set [sic] two or more by the user).” Applicant respectfully submits that, even assuming that the combination of Shaffer and Devec did in fact teach or suggest such an arrangement, the proposed combination would nonetheless

fail to meet the limitations of claims 42-45 wherein a displaying step is executed only if the calculated difference exceeds a threshold, the threshold being a number of menu items greater than or equal to two.

In view of the foregoing, Applicant believes that the present application is in condition for allowance, and respectfully requests withdrawal of the aforementioned rejection.

Respectfully submitted,

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